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HOUSE OF REPRESENTATIVES
REPORT
99-539

MF 148

NATIVE AMERICAN PROGRAMS AMENDMENTS OF 1986

APRIL 16, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H.R. 3247]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 3247) to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes all after the enacting clause and inserts a new text which appears in italic type in the reported bill.

INTRODUCTION

On September 9, 1985, Congressman Dale E. Kildee introduced H.R. 3247, the Native American Programs Amendments of 1986, authorizing appropriations for fiscal years 1987, 1988, 1989, and 1990.

COMMITTEE ACTION

The Subcommittee on Human Resources held a hearing on reauthorization of the Native American Programs Act on September 12, 1985, in Washington, D.C. Testifying were Gregory W. Frazier, Chief Executive, National Urban Indian Council, Denver, Colorado; Suzan Harjo, Executive Director, National Congress of American Indians, Washington, D.C.; Phillip Martin, Chief, Mississippi Band of Choctaw Indians, Philadelphia, Mississippi; John Christensen, Executive Director, Abenaki Self-Help Association, Swanton, Vermont; A. Van Horn Diamond, Director of Economic Development, Alu Like, Honolulu, Hawaii.

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On February 24, 1986, the Subcommittee on Human Resources held a reauthorization hearing at which time Administration witnesses testified on the Native American Programs Act. Testifying were Honorable Dorcas R. Hardy, Assistant Secretary, Office of Human Development Services; Honorable William Lynn Engles, Commissioner, Administration for Native Americans.

On March 20, 1986, the Subcommittee marked-up the bill. On April 10, 1986, the Committee on Education and Labor considered the bill and ordered the bill reported with an amendment without objection.

Background and Need for Legislation

The Native American Programs Act of 1974 was originally enacted on January 4, 1975 (P.L. 93-644) as Title VIII of the Economic Opportunity Act. Among federal programs, the Act is unique in providing assistance for the benefit of Native Americans. Consequently, the Act was extended in 1978 (P.L. 95-568), 1981 (P.L. 97-35), and 1984 (P.L. 98-558). Testimony presented to the Subcommittee on Human Resources clearly indicated that the Act is very successful and provides flexible assistance in a manner and to a service population unlike any other federal program. Without the enactment of this bill, the Act will expire on September 30, 1986.

The purpose of the Native American Programs Act (P.L. 93-644, as amended) is to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives. To accomplish this purpose, the Act authorizes three types of assistance: (1) financial assistance to support locally developed projects under section 803; (2) training and technical assistance under section 804; and (3) financial assistance to support research, demonstration, and evaluation activities under section 805.

The administration of the Act is vested in the Secretary of Health and Human Services who is directed to delegate those responsibilities to the Commissioner of the Administration for Native Americans (ANA). Those desiring financial assistance make requests in the form of grant applications, which must address application criteria established by ANA. The Commissioner has traditionally exercised his authority to review applications for assistance by utilizing peer review (or field reader) panels of Indian, Alaskan, and Hawaiian experts. After receiving the recommendations of these peer reviewer panels, the Commissioner has generally exercised his discretion in deciding which applications to fund based upon additional information available to him (e.g., past performance of grantees).

Assistance under section 803 is provided through grants and contracts to a wide range of eligible native recipients including the governing bodies of Indian tribes on Federal and state reservations, Alaskan Native villages and regional corporations, public and private nonprofit agencies serving Hawaiian Natives, and Indian organizations in urban and rural nonreservation areas. The following are frequently pursued objectives in section 803 grants:

Increased employment of Native Americans;
Indian business development;
Strengthening of tribal government functions;

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Achievement of tribal management and organization goals;
Construction and renovation of housing units; and
Alaska Native village development.

Training and technical assistance is authorized for the purpose of assisting eligible entities in developing and administering projects funded under the Act, and by providing short-term in-service training for project personnel.

Research, demonstration and evaluation is authorized to provide assistance to test or assist in the development of new approaches and methods that will further the social and economic development of local Native American communities.

According to the Department of Health and Human Services, the ANA program has been very successful as demonstrated by the following statistics from fiscal year 1984:

the total number of new jobs for Native Americans resulting from ANA projects was 11,165;

a total of 601 Indian and Native Hawaiian businesses were started or expanded; and

ANA projects involving tribal energy resources resulted in $52 million in increased income.

Explanation of the Bill

H.R. 3247, as introduced, reauthorized the Native American Programs Act of 1974 for an additional four years. The bill authorized appropriations for each year at a level of such sums as may be necessary. The Committee added new provisions related to applications for assistance and rulemaking.

Section 2 of the bill contains two provisions related to applications for assistance. The first amends section 803 to authorize the Administration for Native Americans (ANA) to award multi-year grants. For grantees attempting to operate projects which require more than one year of funding, having to apply and compete every year presents unnecessary difficulties. Thus, the Committee's intent is that this type of grant be available to those applicants who can demonstrate that a limitation of the grant to one year would significantly reduce their project's effectiveness. In addition, the applicant should be required to include a specific multi-year plan with the application. The review of continuation applications is not a competitive process, it is not subject to the peer review procedures required in section 2(4) of the bill. Thus, ANA can focus its review of the continuation applications (for the additional years of the grant period) on whether (1) the project plan is consistent with the multi-year plan approved as a part of the original application, (2) the grantee made satisfactory progress in the prior year, and (3) the grantee has satisfied all applicable financial and program reporting requirements. The Commissioner should give first priority to funding continuation grants. Although there is no limitation in the bill on the duration of multi-year grant awards, the Committee recommends a maximum of three years.

The second provision in section 2 requires ANA to formally establish its current peer review (i.e., field reader) process for reviewing applications for assistance. Consistent with ANA's current practice, the amendment also requires that, in selecting peer re-

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viewers, the Commissioner give preference to American Indians, Hawaiian Natives, and Alaskan Natives. In no case may any official or employee of ANA sit on a peer review panel. Following the review of applications, each peer review panel must rank them in the order of their relative merit. These lists will be submitted to the Commissioner.

The bill leaves to the Commissioner's discretion the method to be used in combining the lists if more than one peer review panel is used. Additionally, the Commissioner may select any of the applications for funding in any order he chooses. The Committee wishes to strongly emphasize that there is no intention to limit the Commissioner's grant making discretion. What the amendment provides is that, in each instance that he selects an application for funding ahead of another application which the peer review panel(s) identified as superior in merit, he must make a record explaining the reasons for his selection. These reasons must detail why he selected this application and why he did not select the other application(s) ranked superior in merit. After the Commissioner makes the grant awards, he is required to submit to the Committee and to the Senate the following documents: (1) the rankings submitted to the Commissioner by the peer review panel(s); (2) a list of the applications approved for awards; and (3) the record containing the Commissioner's reasons for deciding not to follow the list of ranked applications. It is not the intention of the Committee to require the routine submission of such materials as grant application or ratings applications by individual peer reviewers.

Section 3 amends the Act by establishing a new section 814 with five new rulemaking provisions. The first provision makes the Native American Programs Act subject to the Administrative Procedure Act. The result is that ANA must publish in the *Federal Register*, as a notice of proposed rulemaking, all changes in general statements of policy, application requirements or priorities, other grantee or program requirements, as well as any changes in ANA organization, procedure, or practice. ANA must also afford interested parties at least thirty days to comment on the proposed rule before it can be published in final form. This is intended to curtail the ANA practice of simply announcing changes in policy or specific requirements without public comment. An example of the this was contained in the August 12, 1985 program announcement (50 *Federal Register* 32542)—"The following activities are inconsistent with the policies of ANA: . . . ('third party T/TA')." Although not prohibited by section 805 of the Act, ANA nonetheless decided that they would not support this method of providing training and technical assistance without soliciting Indian/Alaskan/Hawaiian input. This type of policymaking is clearly not consistent with the Federal policy of Indian Self-Determination.

The second provision in section 3 requires ANA to place in all published rules, citations of legal authorizing the particular action. Legal authority includes applicable statutes, regulations, case law, executive orders, and Office of Management and Budget Circulars.

The third provision provides that, when it becomes necessary or appropriate to issue a rule following the enactment of a law, the new rule must be published in final form within six months.

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The fourth provision requires ANA to transmit a copy of each published rule to the House of Representatives and to the Senate.

The fifth provision amends the Act's definitions by stipulating that the meaning of the term "rule" used in the Act is the same as the one used in the Administrative Procedure Act.

The Committee remains concerned about ANA's responsiveness to urban concerns, the lack of which has contributed to the decreasing number of urban grants. More attention should be given to these grantees in both policy input and technical assistance contexts.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3) (B) and (C) of rule XI of the Rules of the House of Representatives, the estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974, submitted prior to the filing of this report, is set forth as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 16, 1986.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3247, the Native American Programs Amendments of 1986, as ordered reported by the House Committee on Education and Labor on April 10, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3247.
2. Bill title: Native American Programs Amendments of 1986.
3. Bill status: As ordered reported from the House Committee on Education and Labor, April 10, 1986.
4. Bill purpose: The purpose of this bill is to amend and extend the authorization for appropriations for Native American Programs through 1990. This bill is subject to subsequent appropriations action.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Estimated authorization level	30.6	32.3	34.0	35.8	.....
Estimated outlays	11.0	28.8	32.7	34.5	22.8

The costs of this bill fall within function 500.

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Basis of Estimate: This bill authorizes financial assistance to public and nonprofit private agencies for projects to promote self-sufficiency for Native Americans. The program is authorized at such sums as may be necessary. The 1986 appropriation level, adjusted for inflation, was used to estimate authorization levels. Outlay estimates were made assuming full appropriation of estimated authorization levels. Outlays reflect the current spending pattern of these programs.

6. Estimated cost to State and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be affected directly by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Ken Pott.

10. Estimate approved by:

C.G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

COMMITTEE ESTIMATE

With reference to the statement required by clause 7(a)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts the estimate prepared by the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

In compliance with clause (2)(l)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment into law of H.R. 3247 will have no inflationary impact on prices and costs in the operation of the national economy. It is the judgement of the Committee that there is no inflationary impact of this legislation as a component of the Federal budget.

COMMITTEE FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, this report embodies the findings and recommendations of the Subcommittee on Human Resources, established pursuant to clause 2(b)(1) of rule X of the House of Representatives and rule 18(a) of the Rules of the Committee on Education and Labor (see Background and Need for Legislation).

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee states that no findings or recommendations of the Committee on Government Operations were submitted to the Committee with reference to the subject matter addressed in H.R. 3247.

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SECTION-BY-SECTION ANALYSIS

Short Title

Section 1 provides that this Act may be cited as the "Native American Programs Amendments of 1986."

Review of Applications for Assistance

Section 2(1) amends section 803(a) to permit the Secretary to award grants on a single year or multiyear basis.

Section 2(2) and (3) redesignate certain sections.

Section 2(4) provides that the Secretary shall establish a formal peer review process for the purpose of evaluating applications for assistance and provides that certain review documents shall be provided to the Congress following the awarding of grants.

Procedural Requirements

Section 3(a) provides that the program authorized by this Act shall be subject to the Administrative Procedure Act.

Section 3(b) amends section 315 by clarifying the definition of the term "rule".

Authorization of Appropriations

Section 4 amends section 816(a) to extend the authorization of appropriations through fiscal year 1990.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIVE AMERICAN PROGRAMS ACT OF 1974

* * * * * * *

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

SEC. 803. (a) The Secretary is authorized to provide financial assistance, *on a single year or multivear basis,* to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit private agencies serving Hawaiian Natives, and Indian organizations in urban or rural nonreservation areas, for projects pertaining to the purposes of this title. In determining the projects to be assisted under this title, the Secretary shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activites or projects and for the purpose of determining whether the findings resulted from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial

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assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.

* * * * * * *

PEER REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 806. (a)(1) The Secretary shall establish a formal peer review process for purposes of evaluating applications for financial assistance under sections 803 and 805 and of determining the relative merits of the projects for which such assistance is requested.

(2) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Hawaiian Natives, and Alaskan Natives.

(b) Each peer review panel established under subsection (a)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Whenever the Secretary approves an application for financial assistance under section 803 or 805, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the President pro tempore of the Senate written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

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ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, OR PILOT PROJECTS

SEC. [806.] *807.* (a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Secretary determines that it would not be consistent with the purposes of this title, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

SUBMISSION OF PLANS TO STATE AND LOCAL OFFICIALS

SEC. [807.] *808.* (a) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaskan Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a State other than on or in an Indian reservation or Alaskan Native village or Hawaiian Homestead, unless the Secretary has notified the chief executive officer of the State of the decision of the Secretary to provide that assistance.

(c) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a city, county, or other major political subdivision of a State, other than on or in an Indian reservation or Alaskan Native village, or Hawaiian Homestead, unless the Secretary has notified the local governing officials of the political subdivision of the decision of the Secretary to provide that assistance.

RECORDS AND AUDITS

SEC. [808.] *809.* (a) Each agency which receives financial assistance under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptrolier General of the United States, or any of their duly authorized representatives, shall have

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access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this title that are pertinent to the financial assistance received under this title.

APPEALS, NOTICE, AND HEARING

SEC. [809.] *810.* The Secretary shall prescribe procedures to assure that—

(1) financial assistance under this title shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this title shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

EVALUATION

SEC. [810.] *811.* (a) The Secretary shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this title, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(b) Prior to obligating funds for the programs and projects covered by this title with respect to fiscal year 1976, the Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this title. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this title.

(c) In carrying out evaluations under this title, the Secretary may require agencies which receive assistance under this title to provide for independent evaluations.

(d) In carrying out evaluations under this title, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this title about such programs and projects.

(e) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact, and effectiveness not later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed

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with assistance under this title shall become the property of the United States.

LABOR STANDARDS

SEC. [811.] *812.* All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this title, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 1, 1934.

ADMINISTRATION; DELEGATION OF AUTHORITY

SEC. [812.] *813.* (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

(c) Nothing in this section shall be construed to prohibit interagency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.

ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

SEC. 814. (a) Notwithstanding subsection (a) section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

(b) The last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any general statement of policy) that is—

(1) proposed under this title;

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(2) applicable to any program, project, or activity authorized by, or carried out under, this title; or

(3) applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that would affect the administration of this title.

(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (or general statement of policy) that—

(1) is issued to carry out this title;

(2) applies to any program, project, or activity authorized by, or carried out under, this title; or

(3) is applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that will affect the administration of this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

(d) Each rule to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule, the Secretary shall issue such rule not later than 180 days after the date of the enactment of such law.

(f) Whenever an agency publishes in the Federal Register a rule (including a general statement of policy) to which subsection (c) applies, such agency shall transmit a copy of such rule to the Speaker of the House of Representatives and the President pro tempore of the Senate.

DEFINITIONS

SEC. [813.] *815.* As used in this title, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation of Alaskan Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or an State, and any lands of or under the jurisdiction of an Alaskan Native village or group, including any lands selected by Alaskan Natives or Alaskan Natives organizations under the Alaska Native Claims Settlement Act;

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778; [and]

(4) the term "rule" has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and

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[(4)] *(5)* "Secretary" means the Secretary of Health and Human Services.

AUTHORIZATION OF APPROPRIATIONS

SEC. [814.] *816.* (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title, such sums as may be necessary for fiscal year 1979 through [1986.] *1990.*

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.

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